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U.S. BANK NATIONAL ASSOCIATION,

as Trustee for Structured Asset Securities

Corporation Mortgage Pass-Through

Certificates, Series 2007-GEL2

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ESTELITA T. TERRADO,

Plaintiff,

vs.

U.S. BANK NATIONAL ASSOCIATION
et al.,

Defendants.

Civil No. 1:18-CV-00148-DKW-RLP

DEFENDANT U.S. BANK NATIONAL
ASSOCIATION'S MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S
MOTION TO STRIKE DEFENDANTS'
ANSWER IN THE ALTERNATIVE
ENTER DEFAULT JUDGMENT,
FILED HEREIN ON JANUARY 29,
2019 [DKT. #38]; DECLARATION OF
JONATHAN W.Y. LAI; CERTIFICATE
OF SERVICE

**DEFENDANT U.S. BANK NATIONAL ASSOCIATION’S MEMORANDUM
IN OPPOSITION TO PLAINTIFF’S MOTION TO STRIKE
DEFENDANTS’ ANSWER IN THE ALTERNATIVE ENTER DEFAULT
JUDGMENT, FILED HEREIN ON JANUARY 29, 2019 [DKT. #38]**

COMES NOW, U.S. BANK NATIONAL ASSOCIATION, as Trustee for Structured Asset Securities Corporation Mortgage Pass-Through Certificates, Series 2007-GEL2, identified in the Amended Complaint as Defendant U.S. BANK NATIONAL ASSOCIATION et al. (herein “**U.S. Bank**”), by and through its undersigned attorneys, WATANABE ING LLP, and hereby submits its opposition to “*Plaintiff’s Motion to Strike Defendants’ Answer in the Alternative Enter Default Judgment*” filed herein on January 29, 2019 [Dkt. #38] (the “**Motion to Strike**”) by Plaintiff ESTELITA T. TERRADO (“**Plaintiff**”).

Plaintiff’s Motion to Strike should be denied as it is procedurally improper and without legal authority.

First, to the extent Plaintiff is seeking entry of default judgment against U.S. Bank, the request should be denied. Federal Rule of Civil Procedure 55(b)(2) authorizes courts to enter a default judgment against a properly served defendant who fails to file a timely responsive pleading. On December 27, 2018, U.S. Bank appeared in this action and filed a motion to dismiss Plaintiff’s amended complaint. See ECF Nos. 33, 35. Accordingly, Plaintiff’s request for default judgment is without merit as Defendant U.S. Bank appeared in the case and presented its timely defense.

Second, to the extent Plaintiff seeks to strike U.S. Bank's motion to dismiss, any such request should similarly be denied. Pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, a Court may strike an "insufficient defense or any redundant, immaterial, impertinent, or scandalous matter."

US Bank's motion to dismiss was timely and properly filed. There is no substantive basis to strike US Bank's motion to dismiss.¹ As the motion to strike is without legal authority and procedurally incorrect, the request to strike should be denied.

CONCLUSION

For the foregoing reasons, U.S. Bank respectfully requests that the Court deny Plaintiff's Motion to Strike.

DATED: Honolulu, Hawaii, February 14, 2019.

WATANABE ING LLP
A Limited Liability Law Partnership

/s/ Jonathan W.Y. Lai
JONATHAN W.Y. LAI
THOMAS J. BERGER
Attorneys for Plaintiff
U.S. Bank National Association,
as Trustee for Structured Asset Securities
Corporation Mortgage Pass-Through
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¹ The motion to strike is also time-barred. See Fed. R. Civ. P. 12(f)(2).

IN THE UNITED STATES DISTRICT COURT
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ESTELITA T. TERRADO,

Plaintiff,

vs.

U.S. BANK NATIONAL
ASSOCIATION et al.,

Defendants.

Civil No. 1:18-CV-00148-DKW-RLP

DECLARATION OF JONATHAN
W.Y. LAI

DECLARATION OF JONATHAN W.Y. LAI

I, JONATHAN W.Y. LAI, do declare as follows:

1. I am one of the attorneys representing Defendant U.S. Bank National Association (“*US Bank*”), and I have personal knowledge of and am competent to testify to the matters hereinafter stated. I hereby make this declaration in support of DEFENDANT U.S. BANK NATIONAL ASSOCIATION’S MEMORANDUM IN OPPOSITION TO PLAINTIFF’S MOTION TO STRIKE DEFENDANTS’ ANSWER IN THE ALTERNATIVE ENTER DEFAULT JUDGMENT, FILED HEREIN ON JANUARY 29, 2019 [DKT. #38].

2. On December 27, 2018, our office appeared in this action and filed Defendant U.S. Bank National Association's Motion to Dismiss Plaintiff's Amended Complaint, Filed Herein on July 17, 2018 [DKT. #16], with Prejudice. (the "Motion to Dismiss"). See ECF No. 33.

3. The Court scheduled the hearing on the Motion to Dismiss for February 22, 2019 at 10:30 A.M. in Aha Kuponono before the Honorable Derrick K. Watson. See ECF No. 34.

4. Pursuant to Rule 7.4 of the Local Rules of Practice for the United States District Court for the District of Hawaii, an opposition to a motion set for hearing "shall be served and filed not less than twenty-one (21) days prior to the date of hearing." LR7.4. Any opposition or reply that is untimely filed may be disregarded by the court or stricken from the record." Id.

5. Plaintiff has not filed a timely opposition to the Motion to Dismiss.

6. Should a belated opposition by Plaintiff be filed, U.S. Bank requests that such opposition be disregarded by the court or stricken from the record.

I, JONATHAN W.Y. LAI, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawaii, February 14, 2019.

/s/ Jonathan W.Y. Lai
JONATHAN W.Y. LAI

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ESTELITA T. TERRADO

Plaintiff,

vs.

U.S. BANK NATIONAL
ASSOCIATION et. al.,

Defendants.

Civil No. 1:2018-CV-001480DKW-RLP

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2019, a true and correct filed copy of the DEFENDANT U.S. BANK NATIONAL ASSOCIATION'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE DEFENDANTS' ANSWER IN THE ALTERNATIVE ENTER DEFAULT JUDGMENT, FILED HEREIN ON JANUARY 29, 2019 [DKT. #38];

DECLARATION OF JONATHAN W.Y. LAI; CERTIFICATE OF SERVICE,
was served on the following parties by depositing a copy of the same in the United
States mail, postage prepaid, addressed as follows:

ESTELITA T. TERRADO
P.O. Box 63156
Ewa Beach, Hawaii 96706

Plaintiff

DATED: Honolulu, Hawaii, February 14, 2019.

/s/ Jonathan W.Y. Lai
JONATHAN W.Y. LAI
THOMAS J. BERGER
Attorneys for Plaintiff
US Bank National Association,
as Trustee for Structured Asset Securities
Corporation Mortgage Pass-Through
Certificates, Series 2007-GEL2